

ATTORNEY GENERAL'S OPEN RECORDS AND MEETINGS OPINION
No. 98-O-14

DATE ISSUED: June 25, 1998

ISSUED TO: Patricia J. Lynch, Beach City Mayor

CITIZEN'S REQUEST FOR OPINION

On March 30, 1998, this office received a request for an opinion under N.D.C.C. § 44-04-21.1 from John Hanson asking whether the minutes of the March 2, 1998, meeting of the Beach City Council sufficiently describe the topics discussed between the city council and Mr. Hanson.

FACTS PRESENTED

Mr. Hanson's opinion request states: "In my opinion the most important part of my discussion with [the] mayor and council members as well as with [the] Sheriff of Golden Valley County [was] regarding law enforcement - enforcement of all ordinances on everyone" (Emphasis in original). Mr. Hanson alleges that this description of the discussion should have been reflected in the city council minutes.

The relevant part of the published minutes of the March 2, 1998, meeting of the Beach City Council states:

John Hanson was invited to attend the meeting to discuss infringements [sic] on neighboring properties. . . . Topics discussed included storage of mass amounts of lumber, disposing of excess concrete, building permits issued and drainage problems. Mr. Hanson made the Council aware of two leaks in town he felt should be repaired.

This office is required by state law to base our opinion on the facts provided by the city council. See N.D.C.C. § 44-04-21.1(1). Information provided on behalf of the Beach City Council is summarized in this paragraph and the following three paragraphs. The city had received complaints that old sidewalk cement was being stored on the city boulevard next to Mr. Hanson's property and that lumber was being stored outside of property lines and into the city

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streets near the livestock yard. Livestock truckers were having difficulty backing up to the stockyards.

The city mayor wrote to Mr. Hanson, inviting him to the March 2, 1998, council meeting, hoping an agreeable solution could be reached to help Mr. Hanson remove his property from the public right of way. Mr. Hanson attended the March 2, 1998, meeting. When this agenda item came up, the city council members expressed their concerns about Mr. Hanson's property infringing upon the public right of way. The mayor suggested that the state highway department might be interested in taking the old cement to use as rip rap. Mr. Hanson thanked the mayor for this information, but offered no solution to removing his property from the public right of way.

The city council then approached the matter of Mr. Hanson's piling of old lumber, buildings, and used inventory on his residential lot and boulevard in violation of the city ordinances. Mr. Hanson only demanded to know who complained. Mr. Hanson indicated that the museum and bank have built around his lumber yard and have created a drainage problem for him. He made the council aware of two water leaks in town, and the council assured him the water superintendent would be notified and they would be corrected. Finally, the mayor stated, "I see we are not going to be able to talk or come up with any answers."

The city council then moved on to the next agenda item, which was the monthly sheriff's report. After the sheriff concluded his report, Mr. Hanson interjected to the sheriff about a break-in which had occurred approximately three years ago at his lumber store and asked why it had not yet been resolved. Sheriff Fischer answered the question to the best of his ability. Mr. Hanson went on to complain about harassment and crimes committed after curfew hours. The sheriff assured him he could report these instances if they were a problem. It is the city council's position that this discussion between the sheriff and Mr. Hanson was not considered a business part of the city council meeting. The city mayor also indicated that she does not recall any discussion of enforcing city ordinances equally, however, Mr. Hanson has complained of this outside of city council meetings.

ISSUE

Whether the minutes of the March 2, 1998, meeting of the Beach City Council sufficiently describe the topics discussed between the city council and Mr. Hanson.

ANALYSIS

Minutes of open meetings must include, at a minimum, the information listed in N.D.C.C. § 44-04-21(2), which includes a "list of topics discussed regarding public business." N.D.C.C. § 44-04-21(2)(c). It is not necessary that city council minutes reflect the specific discussions or concerns raised by members of the public at the city council meeting. Certainly, meeting minutes may reflect such discussion or concerns; however, all that is required by N.D.C.C. § 44-04-21 is that the minutes include a list of topics discussed regarding public business.

Although law enforcement was certainly raised by Mr. Hanson at the meeting, it was raised in the context of infringements of Mr. Hanson's property on neighboring properties or the discussion between the sheriff and Mr. Hanson after the sheriff had concluded his report to the city council. If the issue of law enforcement was raised in the context of infringements of Mr. Hanson's property on neighboring properties, it is my opinion that the city council minutes, as quoted in the FACTS PRESENTED portion of this opinion, did not have to state that the issue of law enforcement was discussed. Any discussion of law enforcement relating to the infringements on neighboring properties falls within that topic as described in the minutes. Also, statements between a member of the public and another city officer reporting to the city council need not be reflected in the city minutes. Therefore, it is my opinion that the discussion regarding law enforcement between Mr. Hanson and the sheriff after the sheriff concluded his report to the city council did not need to be reflected in the minutes.

In conclusion, it is my opinion that the minutes of the March 2, 1998, meeting of the Beach City Council were not required to state that the city council discussed law enforcement and enforcement of all ordinances on everyone, even though Mr. Hanson felt that that was the most important part of his discussion with the mayor, council members, and the sheriff.

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CONCLUSION

It is my opinion that the minutes of the March 2, 1998, meeting of the Beach City Council sufficiently describe the topics discussed between the city council and Mr. Hanson.

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